

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 615

Case No. 88-25

Map Amendment @ the north side of unit block of K St., N.E.
April 10, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on February 27, 1989. At that hearing session, the Zoning Commission considered the application of TW K Street Associates, 26 K Street Associates, Richard and Jeffrey Sharlin, and Montgomery Road I Limited Partnership to amend the Zoning Map of the District of Columbia, pursuant to Section 102.1 of the District of Columbia Municipal Regulations (DCMR) Title 11, Zoning. The hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on September 19, 1988, requested a change of zoning from C-M-3 to C-3-C for Lots 432, 434, 435 and 436 in Square 674. The subject site is located at premises 20, 22, 26 and 90 K Street, N.E. The subject site is located in a C-M-3 zone district.
2. On December 19, 1988, the Zoning Commission authorized a public hearing for the subject application and determined that it would also consider a C-3-B rezoning alternative for the subject site.
3. The subject site, located in the square bounded by North Capitol, First, K and L Streets, N.E., is approximately 155,682 square feet in land area, and is located within the boundaries of the Northeast I - Urban Renewal Area. The subject site is currently improved with two low-rise commercial buildings and one surface parking lot.
4. The C-M-3 District permits high bulk commercial light manufacturing, to a maximum floor area ratio (FAR) of 6.0 and a maximum height of ninety feet with new residential uses prohibited.

5. The C-3-C District permits major business and employment centers of medium/high density development, including office, retail, housing, and mixed uses to a maximum height of ninety feet, a maximum FAR of 6.5 for residential and other permitted uses, and a maximum lot occupancy of one hundred percent.
6. The subject site is located three blocks from Union Station and three blocks from the U.S. Post Office building. It is across the street from several office buildings which front onto the south side of K Street, with the Union Center Plaza, a 1.4 million square foot office project currently in the first phase of construction further south. The Union Station and railroad properties are further to the south and east. The site is on the north side of K Street; St. Phillips Baptist Church and the North Capitol Street Medical Center Office Building developed by Kaiser Permanente are located to the west; and an open parking deck, the C&P Telephone Company building and L Street are to the north. Further south, the property between G Place and G Street, N.E., is occupied by the U.S. Government Printing Office warehouse and parking lots. Across North Capitol Street is the U.S. Printing Office. Proceeding north are located a parking structure, a playfield, Gonzaga High School and St. Aloysius Church.
7. The subject site is located adjacent to a significant large area zoned C-3-C to the south. To the west is a C-2-A zone. To the north is a C-M-3 zone, and to the east is unzoned Federal property (the location of Union Station). Further to the east is C-M-1, C-2-A, C-1 and R-4 zoning.
8. The subject site is subject to two development controls, those of the Northeast I-Urban Renewal Plan and the Zoning Regulations. The more restrictive of two controls will be applicable to any specific proposed development.
9. The subject site is designated "Industrial and Commercial" on the Land Use Map of the Northeast I-Urban Renewal Plan.
10. The Comprehensive Plan for the National Capital designates the subject site for "Mixed Medium Density Commercial/Production and Technical Employment Use".

11. In 1985, in Case No. 84-6 and by Z.C. Order No. 450, the Zoning Commission granted a similar rezoning request made by the Redevelopment Land Agency ("RLA") for property contiguous to the subject site, located in Squares 675, 676 and 677. In that case, the Commission rezoned a parce of property containing 201,062 square feet of land from C-M-3 to C-3-C.
12. Similarly in July 1988, in Case No. 88-1 and by Z.C. Order No. 579, the Zoning Commission granted approval of a rezoning request made by several owners of property located in Squares 675 and 676. In that case, the Commission rezoned 163,147 square feet of land from C-M-3 to C-3-C.
13. In both Cases No. 84-6 and 88-1, the Commission believed that development patterns in the area indicated growth in commercial/office/hotel use rather than in industrial use as originally anticipated. Specifically, the Commission found:
 - a. "that the existing C-M-3 zoning has proven to be inappropriate in terms of the emerging development trends in the area for office and/or hotel use";
 - b. "that the existing C-M-3 zoning is incompatible with the uses permitted on the subject site by the Urban Renewal Plan"; and
 - c. "that the rezoning of the property to C-3-C would be compatible with the existing zoning in the area since C-3-C concurrently exists directly south, east, and west of the site".
14. The development patterns in the area indicated growth in the commercial office/hotel use, rather than the industrial uses originally anticipated in the Urban Renewal Plan. Consequently, the applicants believe that the C-M-3 zoning on the property no longer is appropriate for industrial uses.
15. The parking requirements for the Northeast I-Urban Renewal Area Plan were amended in July, 1983, from one parking space for each 900 square feet to one space for each 1,800 square feet to bring the Urban Renewal Plan standards in line with the emerging needs of the area. The Urban Renewal Plan permits a maximum FAR of 6.0, which is more restrictive than the 6.5 FAR permitted under C-3-C zoning.

16. The applicants do not propose any specific development plans but have determined that the area is more suited for commercial/office/hotel use rather than industrial use, as was previously determined for property immediately south of the subject site in Case No. 88-1, Z.C. Order No. 579, and Case No. 84-6, Z.C. Order No. 450.
17. The change of zoning is requested to allow for eventual development to proceed on the site and for an appropriate zoning classification to be in place at this time. The applicants believe that the existing C-M-3 zoning of the property would not be compatible with development in the immediate area, and would have an adverse impact on development because of the parking requirements for C-M-3 zoned property.
18. The applicant's land planning expert testified at the public hearing that the orderly development and use of the subject site is hindered by the existing zoning which permits industrial uses which are of questionable compatibility with surrounding development. He testified that office activities have become the dominant land use surrounding the subject site, rather than certain of the industrial uses originally permitted for the area. He further stated that with the eastward expansion of the City's downtown and the recent development of the area as an office/hotel area, the site is particularly appropriate for commercial rather than industrial use and that the zoning should reflect that use. He stated that the requested rezoning is a logical extension of the prevailing land use trends in the area.
19. The land planner also testified that the requested map amendment would be in conformance with the Comprehensive Plan which designates the subject site for mixed commercial/production and technical employment use. In so doing, it surrounding neighborhood. He also stated that the subject site is located in a "Special Treatment Area." Section 1122 of the Comprehensive Plan designates the Northeast No. I and Eckington Yards as a Special Treatment Area. One of the policies of the Northeast No. I Special Treatment Area is to "target the area for a new, secondary lower rent office district." The land planner testified that the site is perfect for commercial office use in keeping with the development opportunity aims of the Comprehensive Plan, and that C-3-C zoning will assure that the goals of the special treatment area are met. He further testified that

the requested rezoning would also further the objectives of the Urban Renewal Plan which encourage office and hotel use.

20. The land planner testified that a rezoning of the subject property would be in conformance with the property immediately south of the subject site, which was rezoned to C-3-C zoning in 1985 and 1988. The property rezoned in Case No. 84-6 of the applicants consistent with C-3-C zoning. He noted that the subject case is one of merely extending the existing C-3-C zoning to the north side of K Street. The land planner further testified that the alternative zoning of C-3-B under consideration by the Commission would be a substantial downzoning of the property since the C-3-B zone only permits a 4.0 FAR for commercial use and a height of 70 feet. He concluded that this would be an appropriate zoning classification in light of the development which has already occurred in the area, the site's location in a Special Treatment Area which envisions the area for a new secondary lower rent office district, and in light of surrounding zoning patterns.
21. The applicant's expert real estate appraiser testified at the public hearing that the highest and best use of the subject site is office use. He stated that market trends indicate that the preponderance of new and proposed development in and around the Northeast I - Urban Renewal Area is for office use, not warehouse, industrial or manufacturing use. He testified that surrounding properties in the area, located on or near North Capitol Street, to New York Avenue are similarly affected. He further stated that many of the low rent office buildings downtown have been removed from the market and that, at present land costs in and near the Northeast I - Urban Renewal Area can be affordable to some of the displaced businesses. In addition, the real estate appraiser testified that land prices in the area have already priced it out of the market for light industrial and research and development types of uses.
22. The applicant's expert market and economic planning consultant testified that the annual fiscal benefits to the city of rezoning the property in the Northeast Number 1 Urban Renewal Area to C-3-C would be \$23 million greater than if the area was rezoned to C-3-B. He stated that the North Capitol Street area is ripe for good quality office space from a market, economic, planning and fiscal perspective. He additionally testified

that allowing more office space in this area of the city is not a question of detracting from another area of the city, but rather, an opportunity for allowing the city to capture office space which might otherwise not be built in the city.

23. The applicant's traffic engineer, by report dated September, 1988, stated that there would be an imperceptible traffic impact as a result of the requesting rezoning, and that trip generation would be no greater than with matter-of-right development under the existing C-M-3 zone. Moreover, because the site is located in a highly accessible area of the city with the Union Station, Metro station and bus terminals in close proximity, the parking requirements for the C-M-3 zone are unnecessary and inappropriate.

The traffic report also noted that to support the Union Station metro stop, the highest density commercial use is needed for property surrounding the station, and that, therefore, office use should be encouraged. The Commission was informed that a pedestrian connector tunnel or passageway is contemplated between the north Union Station Metrorail portal and the H Street Overpass. In addition, the traffic consultant testified that the improvements to be made on K Street at North Capitol Street, which were called for in the traffic analysis done for Case No. 88-1, were made by the Department of Public Works.

24. The District of Columbia Office of Planning (OP), by memorandum dated February 17, 1989, recommended that the application be approved. OP reported that the availability of suitable commercial sites in the Downtown area is decreasing and the Union Station area is becoming a viable option for the location of certain types of commercial uses. OP reported that it has undertaken a study of the general area and, while a final report on the area is pending, that the proposed map amendment in the subject case is consistent with the proposal that OP will be making for the area. OP noted that the development trends in the area have changed considerably over the last few years and that the area has now become more suitable for commercial and/or residential uses rather than the existing C-M-3 zoning which allows industrial development. OP stated in its report that in its opinion, the existing C-M-3 for the subject site is no longer appropriate. In addition, OP noted that the subject site is in close proximity to the Union

Station Metrorail Station and, therefore the need for parking is reduced. OP stated that the C-3-C parking requirements for office use would, therefore, correspond more closely to the parking needs of the subject site than the C-M-3 parking requirements.

25. The District of Columbia Department of Public Works (DPW) did not timely file a statement in this case.
26. The District of Columbia Department of Consumer and Regulatory Affairs (DCRA) /Housing and Environmental Regulatory Administration, by memorandum dated February 21, 1989, recommended that any plans for the future development of the site incorporate stormwater management measures or runoff controls.
27. The District of Columbia Fire Department, by memorandum dated February 21, 1989 stated that it has no objection to the rezoning request.
28. Advisory Neighborhood Commission (ANC) 2C voted unanimously to support the application. By letter dated February 13, 1989, ANC 2C stated that it "believes that the change in zoning is compatible with development trends in the area . . . [and] that C-M-3 type uses are not likely to develop in the area." The ANC also stated in its letter "that utilization of these properties would be more rapid under a C-3-C zone . . . [and] further that C-3-C uses of these properties will be less offensive to residences and churches of the immediate area."
29. Three (3) letters in support of the application were filed. There were no parties or persons in opposition to the application.
30. The Commission concurs with the conclusions and recommendations of the OP. The Commission finds that the requested C-3-C, in lieu of C-3-B, zoning is fully consistent with the Comprehensive Plan. The Commission also finds that the requested rezoning will be in furtherance of the goals of the Northeast Number I Special Treatment Area, which target the area for a new, secondary office district. The Commission further finds that reclassification of the property to C-3-C zoning would be compatible with the existing zoning since C-3-C zoning currently exists directly south of the site. The Commission also finds that extension of the C-3-C zoning line to include the

subject site satisfies the requirements for the C-3-C District in that the district will accommodate an important new commercial sub-center which is in close proximity to, and supplements, the Central Business District; will provide substantial amounts of employment; and will permit medium-high density development, including office, retail, housing and mixed-use development.

31. The Commission finds that the existing C-M-3 zoning for the subject site has proven to be inappropriate in terms of the emerging development trends in the area for office and/or hotel use. The Commission finds that the preponderance of new and proposed development in the area surrounding North Capitol Street to New York Avenue, is for office use and not industrial use. The Commission further finds that the existing C-M-3 zoning is incompatible with the uses permitted on the subject site by the Urban Renewal Plan.
32. As to the concern of DCRA regarding stormwater management, the Commission believes that this matter will be addressed through the permit review process.
33. The proposed action of the Zoning Commission to approve the application was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self Government and Governmental Reorganization Act. NCPC, by report dated April 6, 1989 found that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interest in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. Rezoning to C-3-C is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and serving to stabilize and improve the area.
2. Rezoning to C-3-C will promote orderly development in conformity with the entirety of the District of Columbia zone plan as stated in the Zoning Regulations and Map of the District of Columbia.
3. Rezoning to C-3-C is not inconsistent with the Northeast I - Urban Renewal Plan.

4. Rezoning to C-3-C is not inconsistent with the Comprehensive Plan for the National Capital.
5. A rezoning to C-3-C will not have an adverse impact on the surrounding neighborhood.
6. In considering its decision on this case, the Zoning Commission has accorded ANC-2C the "great weight" consideration to which it is entitled.

DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the following:

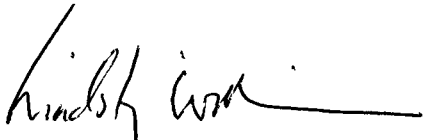
Change from C-M-3 to C-3-C for Lots 432, 434, 435 and 436 in Square 674, located on the north side of the unit block of K Street, N.E., as shown on Exhibit No. 2 of the case record.

Vote of the Zoning Commission taken at the public hearing on February 27, 1989: 5-0 (Elliott Carroll, Maybelle Taylor Bennett, John G. Parsons, Lloyd D. Smith and Lindsley Williams, to approve C-3-C rezoning).

This order was adopted by the Zoning Commission at the public meeting on April 10, 1989 by a vote of 5-0 (John G. Parsons, Lloyd D. Smith, Elliott Carroll, Maybelle Taylor Bennett, and Lindsley Williams, to adopt as amended).

In accordance with 11 DCMR 3028, this order is final and effective upon publication on the D.C. Register; that is on

~~JUL 14 1989~~



LINDSLEY WILLIAMS
Chairman
Zoning Commission



EDWARD L. CURRY
Executive Director
Zoning Secretariat